II. REMARKS

The Examiner is requested to consider the application in view of the foregoing amendment and the following remarks. It is believed that the amendment adds no new matter.

The application, as amended, is believed to be in condition for allowance, and favorable action is requested. The Examiner is invited to call if issuance can be expedited in any way.

The Commissioner is hereby authorized to charge any fees associated with the above-identified patent application or credit any overcharges to Deposit Account No. 50-0235.

Please direct all correspondence to the undersigned at the address given below.

Respectfully submitted,

Date: December 11, 2002

Peter K. Trzyna
(Reg. No. 32,601)

P.O. Box 7131
Chicago, IL 60680-7131

(312) 240-0824

012016, frame 0018, Frog Magic, Inc. acquired all right, title, and interest from the inventor named in the above-identified patent application: Christopher Ewing.

In sum, the patent application was filed on April 19, 1999, the PTO has shown no evidence of a public use or offer of sale more than one year before the filing date, nor prior invention by another, and the patent application owner has no knowledge of any such a public use, on sale bar either, or prior invention.

3. Paragraph 3 of the Office Action

In paragraph 3, the Examiner has rejected claims 1-2, 4, 10-12, 19, 28-33 pursuant to 35 U.S.C. Sec. 102. The Examiner contends that these claims anticipated by Van Name.

In response, the rejection is respectfully traversed. Van Name summarizes features of separate and unrelated Internet sites and ideas that the Examiner has somehow melded together into a system of cooperating parts. Buy.com is not shown as connected to kencranes.com and / or Amazon.com, etc. Most certainly and Amazon.com is not connected to barnesandnobel.com either. These are separate web sites, thought they are all listed in Van Name's article.

One of the separately listed and separately discussed web sites is Amazon.com's Gift Click system, which forms the basis of much of this rejection. However, Van Name dose not teach or suggest anything about said non-pseudonoymous name is not revealed to said party. In fact, Van Name explicitly teach, clearly, and unmistakably teaches the exact opposite, namely that Amazon's system "**sends an email saying that you're sending a gift**..." (emphasis added). Amazon identifies the sender, which is completely contrary to the claimed invention. Thus, as to all listed claims, especially claims 1 and 19, there is no *prima face* anticipation.

As per claims 10 and 33, Van Name teaches two unrelated computer systems, Buy.com and Amazon.com, which the Examiner has interrelated as if it were a cooperating system. Van Name is referring to a different web sites, and this is not anticipation.

As per claims 11-12 and 28-29, Van Name teaches "greeting text" which the Examiner views as an "opportunity to reveal true identity...." An opportunity is not evidence of statutory anticipation.

As per other claims, the Examiner has gone beyond the teaching of Van Name. For example, as per claim 2, Van Name does not teach issuing an order. As per claims 30-33, the Examiner has exceeded the teaching of evidence as well.

Most important, however, is that Van Name is not statutory anticipation because it teaches the exact opposite to the claimed said non-pseudonoymous name is not revealed to said party.

4. Paragraph 4 of the Office Action

In paragraph 4 of the Office Action, the Examiner has rejected claim 19 pursuant to 35 U.S.C. Sec. 102. The Examiner contends that the claim is anticipated by Webcertificate.

In response, the rejection is respectfully traversed. Like Van Name, Webcertificate Name teaches the exact opposite to the claimed said non-pseudonoymous name is not revealed to said party. At line 22-23, Webcertificate states: "Webcertificate arrives as an **e-mail message notifying the recipient** that a gift has been sent and **the name of the sender**" (emphasis added). No *prima face* anticipation has been shown.

5. Paragraph 5 of the Office Action

In paragraph 5 (first) of the Office Action, the Examiner has rejected claim 3 pursuant to 35 U.S.C. Sec. 103. The Examiner contends that claim 3 is obvious in view of Van Nam and Barron.

In response, the rejection is respectfully traversed. Van Name is discussed above as not only failing to disclose said non-pseudonoymous name is not revealed to said party, but indeed teaching the opposite. Barron does not teach this feature either, so there is an insufficient showing for a case of *prima face* obviousness.

Additionally, the Office Action provides no proper reason to combine Barron and Van Name. The Examiner's reason comes not from the cited art, but instead from hindsight. Also, Van Name cannot be combined with Barron to reach the claimed invention without contradicting and destroying the Van Name teaching that the Amazon system "**sends an email saying that you're sending a gift**..." (emphasis added).

More so, there is no indication anywhere in the cited art of even a recognition of the problem to be solved by the invention or the reason for the invention – anonymous or "blind" giving. With no recognition of the problem or reason for the invention in the cited art, a means for solving the unrecognized problem cannot be deemed obvious except by hindsight.

In sum, no *prima face* obviousness has been shown.

6. Paragraphs 6, 5 (second, third, and fourth)-8 of the Office Action

In paragraphs 6, 5 (second, third, and fourth)-8 of the Office Action, the Examiner has rejected claims 5-9, 13-18, 20-27 pursuant to 35 U.S.C. Sec. 103, based on contentions variously including Van Name, Webcertificate, Barron, Official Notice, contentions about automated bank teller machines.

In response, the rejection is respectfully traversed. Van Name and Webcertificate are discussed above as not only failing to disclose said non-pseudonoymous name is not revealed to said party, but indeed teaching the opposite. Barron does not teach this feature either, so there is an insufficient showing for a case of *prima face* obviousness—nor does Official Notice and Examiner contentions about automated bank teller machines. Also, Van Name and Webcertificate cannot be combined with Barron or anything else to reach the

claimed invention without contradicting and destroying the Van Name teaching that the Amazon system "**sends an email saying that you're sending a gift**..." (emphasis added) and the Webcertificate teaching "an **e-mail message notifying the recipient** that a gift has been sent and **the name of the sender**" (emphasis added). These are strictly contrary to the claimed method in which disclose said non-pseudonoymous name is not revealed to said party.

Accordingly, there is an insufficient showing for a case of *prima face* obviousness.

If the rejection is maintained, Applicant requires a reference or the Examiner's affidavit or Declaration for every instance of Official Notice and contention about automated bank teller machine, at least to permit evaluation of whether there is a proper reason to combine the teachings in the manner proposed in the Office Action. This is especially true in view of contentions in the Office Action that exceed the scope of the teaching, misconstruing of Webcertificate and Van Name, the later not only regarding said non-pseudonoymous name is not revealed to said party but also in the attempt to meld together completely unrelated computer systems.

Additionally, the Office Action provides no proper reason to combine the cited art. In every single instance, the purported reason for the combination comes not from the cited art, but instead from hindsight.

More so, there is no indication anywhere in the cited art of even a recognition of the problem to be solved by the invention or the reason for the invention – anonymous or "blind" giving. With no recognition of the problem or reason for the invention in the cited art, a means for solving the unrecognized problem cannot be deemed obvious except by hindsight.

In sum, no *prima face* obviousness has been shown.

III. Conclusion

The Examiner has graciously provided numerous ways to communicate regarding the instant case, and the Applicant and undersigned are most appreciative. The Examiner is invited to contact the undersigned at the telephone number set out below if it can in any way expedite or facilitate issuance of a patent on the application.

The application is believed to be in condition for allowance, and favorable action is respectfully requested. Please direct all correspondence to the undersigned at the address given below.

Respectfully submitted,

Date: December 11, 2002

Peter K. Trzyna
(Reg. No. 32,601)

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I hereby certify that this correspondence is being filed via facsimile with a confirmation copy being deposited with the United States Postal Service as first class mail in an envelope with sufficient postage and addressed to the Commissioner of Patents and Trademarks, Washington, D.C., 20231 on the date indicated below.

Signed: _____
Peter K. Trzyna (Reg. No. 32,601)

Date: December 12, 2002

PATENT

Paper No.

File: Blind Gift

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor	:	EWING, Christopher
Serial No.	:	09/295,230
Filed	:	19 April 1999
For	:	BLIND GIFT METHOD AND SYSTEM
Group Art Unit	:	3629
Examiner	:	DIXON, Thomas A.

Honorable Commissioner of Patents
and Trademarks
Washington, D.C. 20231

SUPPLEMENTAL REMARKS

SIR:

In further response to the Office Action mailed on 11 July 2002, in the above-referenced patent application, please reconsider the application in view of the evidence of nonobviousness submitted herewith.

I. REMARKS

Enclosed please find a patent application obtained from the US Patent and Trademark Office web site. The patent application bears number 20020178089, is titled

"Coordinating Delivery of a Gift," was filed July 12,2002, and names as inventors Jeffery P Bezos and Sheldon J. Kaphan.

Also enclosed is a article obtained from the web site of the NY Post, the article titled "Bezos Patent may be Gift to Amazon," dated December 9, 2002, and indicating that Jeff Bezos is the chief executive officer of Amazon.com and Shel Kaphan is the chief technology officer of Amazon.com.

If the Examiner's interpretation of Van Name's comments about Amazon.com were correct, then Amazon.com would not be fling a patent application almost 4 years later and contending it was an invention.

This patent application contradicts much of the Office Action assertions about the Amazon.com system and state of the art at the time of Applicant's invention. It is respectfully submitted that Amazon.com's officers likely know more about its capabilities than did Van Name. Further, because Amazon.com is something of a 500 pound gorilla in the industry, its officers' statements of what was the state of the art in July 2002, about 2 years after Applicant's filing date, should be given great weight. Weight should also be given to what the officers of Amazon.com viewed as an invention as of its filing date.

It is respectfully submitted that the contentions of the Office Action cannot be maintained for the reasons set forth in the Amendment and Response previously filed. It is also respectfully submitted that the contentions of the Office Action cannot be squared with the contradicting evidence submitted herewith.

The Examiner is requested reconsider the application in view of the evidence of nonobviousness submitted herewith.

II. Conclusion

The application is believed to be in condition for allowance, and favorable action is respectfully requested. The Commissioner is hereby authorized to charge any fees associated with the above-identified patent application or credit any overcharges to Deposit Account No. 50-0235. Please direct all correspondence to the undersigned at the address given below.

Respectfully submitted,

Date: December 12, 2002

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